The Phnom Penh Post

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Why did they kill?

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According to Alex Hinton, the Democratic Kampuchea violence was genocide both in the "strict sense" of the Genocide Convention such as the attacks on ethnic minorities like Cham and Vietnamese and religious groups like Buddhist monks, and in the broad sense such as "attempts to annihilate political and economic groups" (Post, October 7, 2005).

Hinton's assertion is wrong in law and in fact.

There is no evidence the Khmer Rouge leadership had an intent to destroy any group based on their race, ethnicity or religion. Admittedly, some members of ethnic and religious minority groups died during DK, but dead bodies do not necessarily equate with genocide.

On the Chams: The notable incident occurred in 1976 in which a high-ranking DK official was killed and a few were injured in the Cham armed rebellion in Kampong Cham. As a result, the Cham in that the area were dispersed and those responsible apprehended. This was a military or security response rather than conduct based on race or ethnicity.

In addition, a lot of Chams, like other ethnicities, were part of the communist revolution and worked for the top organs of the state from the National Assembly's Permanent Committee (Mat Ly) to the top secret state security apparatus S-21, such as Yeu Math, Ny Sman, Tam Math and Sim Mel. True, of 14,000 S-21 prisoners, about 40 Chams were "processed" through the prison, and about 20 of these were executed. Nothing, including their confessions, suggested they were killed because they were Cham. Like many other prisoners, they were arrested and sent to S-21 because of being implicated in alleged anti-revolutionary activities. Sim Mel, who was one of the S-21 interrogators, was executed based on the fact that he, without permission, killed many prisoners he interrogated. His victims included Meas Ke, a director of Prince Sihanouk's Cabinet, and a fellow KR soldier, Keng Mam. These deaths caused Duch to suspect Mel and recall him from interrogation duties and place him in an S-21 food production unit. Implicated by a prisoner as a traitor, he was brought back to S-21, interrogated and killed.

In regions with high Cham populations, DK created a "Khmer-Islamic Educational Training Unit" which was usually staffed by Chams and even had their own cooperative centers. For instance, in the eastern region there was a "Khmer-Islamic Training Unit" attached to Region 203. Mzas Loh and Mat Ly (who also became CPP high-ranking officials), according to their biography, were a part of the Unit. Ysa Osman, a researcher of the Documentation Center in his Oukobah (2002) found that KR committed genocide against Chams but the evidence he collected, such as the act of prohibiting Islamic practices, is not evidence of genocide.

On the Buddhist monks: Contrary to Hinton's assertion, there was no evidence to suggest that the KR had a policy or intent to destroy Buddhist monks. The temples in all main centers remained intact. Admittedly, a few wooden temples and big houses in remote regions were dismantled in order to use the wood for building cooperative centers, storage and primary schools.

Immediately after the DK takeover, monks were allowed to stay in the temples but were told to produce food and cook for themselves. This was a main factor causing them to disrobe and become farmers/workers like the rest of the society. Forced disrobing and prohibition of religious practice are not crimes under the Genocide Convention.

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True, some of them died from the harsh conditions, but this kind of death is not genocide.

On the Vietnamese: They were allowed to leave the country without harm. About 400,000 left by the end of 1976, although an unknown number remained. When border conflicts intensified in 1977, public anti-Vietnamese rhetoric began to emerge through state media, but it was meant for the enemy over the border. Admittedly, there were a number of Vietnamese killed in response to the coup plot in mid 1977. Again, this was a response to a security threat and not because of their ethnic background. Ben Kiernan's evidence of the central genocidal policy against Vietnamese was his interview with a layperson who claimed to have seen a top secret "Directive from 870, (the CPK Center)": (Pol Pot Regime, p269), that "instructed local officials to arrest all ethnic Vietnamese..." In fact, there was no "Directive from 870" because the Office 870 did not issue either that alleged directive or directives of that nature.

Alex Hinton is incorrect to claim that (1) killing of political and economic groups is also genocide in the "broad sense" of the convention, and (2) that most scholars of genocide agree.

The Travaux Préparatoires of the Genocide Convention demonstrate that destroying groups based on political affiliation or economics was expressly excluded from the convention. Although scholar Beth Van Schaack (1997) argues that destruction of political groups constitutes genocide based on a higher law or jus cogens, even she did not attempt to argue that politicide is a crime under the convention, in any sense. Her problem is, however, that genocide is a treaty-based crime and as such the Vienna Convention on the Law of Treaties applies. This convention does not allow "smart" or broad interpretation of a treaty - either something is in the treaty or it is out.

In the case of Cambodia, such incorporation of politicide would be contrary to current jurisprudence on genocide and the terms of the convention. It would be a retroactive move, an act that is prohibited by the 1993 Constitution and the Paris Accords 1991.

Bora Touch, Sydney

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